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BROWN & MICHAELS, PC 400 M & T BANK BUILDING 118 NORTH TIOGA ST ITHACA, NY 14850			EXAMINER FRANKS, RYAN J	
			ART UNIT	PAPER NUMBER
			4155	
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			01/25/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

10/539,153

**Applicant(s)**

MUSZYNSKI, ARKADIUSZ

**Examiner**

RYAN J. FRANKS

**Art Unit**

4155

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_

## **DETAILED ACTION**

### ***Specification***

1. A substitute specification in proper idiomatic English and in compliance with 37 CFR 1.52(a) and (b) is required. The substitute specification filed must be accompanied by a statement that it contains no new matter.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

For example:

Claim 1 lacks antecedent basis in that the first word is "The". This should be changed to "A".

Claim 6 lacks antecedent basis with the phrasing "the distance pads" which have not, previously to claim 6, been referred to.

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The examples above are only representative. The claims as a whole should be reviewed for compliance with 35 U.S.C. 112 second paragraph.

**The claims are examined as best understood.**

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 5, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson (US Patent 5,010,704) in view of Gillet (US Patent 4,769,961).

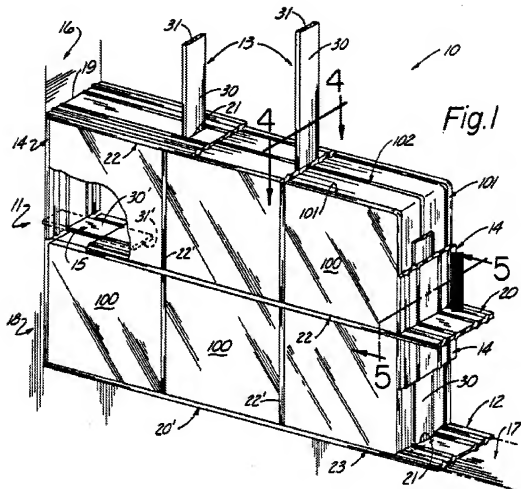


Fig. 1 from Thompson



Gillet teaches that it is known in the art to use fastening rods (Fig. 3, elements 24 and 25). The use of fastening rods enhances the overall rigidity of the structure.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of Thompson with threaded fastening rods similar to that of Gillet in order to make the structure more rigid.

Regarding claim 5, Thompson discloses that the horizontal fastener has a length equal to the length of the glass tile (Fig. 2, dimension C with explanation in Column 2 line 67 through Column 3 line 3). Thompson discloses that the transverse holes of the vertical fastener (Fig. 1, element 19) are situated at a distance from the frontal surface at a distance equal to the sum of a half height of a hollow tile and a half thickness of the horizontal fastener (Fig. 1, thick line drawn in)

Regarding claim 7, Thompson as modified by Gillet discloses holes and mortises that extend throughout the entirety of the horizontal and vertical fasteners. Thompson discloses holes and mortises (Fig. 1, elements 19 and 21; element 31) and Gillet teaches fastening rods (Fig. 3, elements 24 and 25) which extend the entire length of the horizontal and vertical frame elements. Modifying the apparatus of Thompson with the rods of Gillet would mean that the holes and mortises are extended along the complete distance of the horizontal and vertical fasteners.

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7. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson (US Patent 5,010,704) in view of Gillet (US Patent 4,769,961) as applied to claim 1, in further view of Loftus (US Patent 5,907,937).

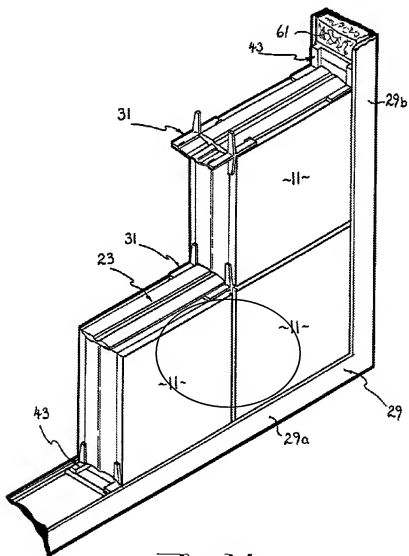


Fig. 14.

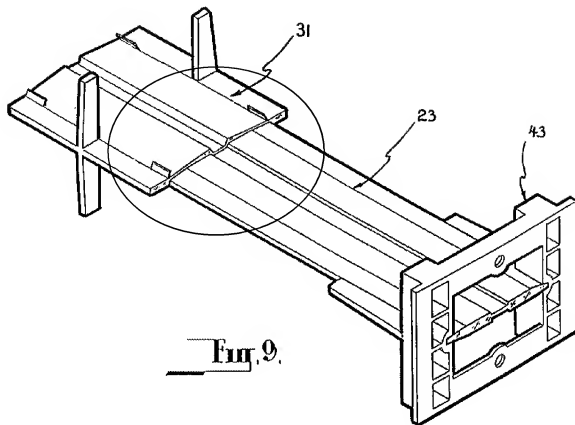


Fig. 14 from Loftus

Regarding claim 2, Thompson as modified by Gillet discloses the apparatus as described above but lacks profiled slats with edges that extend beyond the lateral edges of the fasteners.

Loftus teaches that it is known in the art to have the profiled slats (Fig. 14, elements 31) which have edges that extend beyond the lateral edges of the fasteners (Fig. 14, circled area, edges of slats are extending outside the plane of the wall/fastener combination). Using profiled slats with edges that extend beyond the lateral edges of the fasteners helps to prevent lateral movement of the glass blocks.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of Thompson as modified by Gillet by using profiled slats with edges that extend beyond the lateral edges of the fasteners similar to that of Loftus in order to prevent lateral movement of the glass blocks.



**Fig. 9.**

Fig. 9 from Loftus

Regarding claim 3, Thompson as modified by Gillet as further modified by Gillet discloses the apparatus as described above regarding claim 2.

Loftus teaches that it is known in the art to use profiled slats fixed to horizontal and vertical fasteners via tongue and groove joints (Fig. 9, circled area).

Using profiled slats fixed to horizontal and vertical fasteners via tongue and groove joints securing connects the members of the structure.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of Thompson as modified by Gillet as further modified by Loftus by incorporating the profiled slats connected to the fasteners by tongue and groove joints similar to that shown by Loftus in order to securely connect structural members.

8. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson (US Patent 5,010,704) in view of Gillet (US Patent 4,769,961) as applied to claim 1, above and further view of Hase (US Patent 5,606,840).

Thompson as modified by Gillet discloses an apparatus as set forth above with claim 1, but lacks a stud-bolt and nut for a threaded fastener.

Hase teaches that it is known in the art to use a stud-bolt and nut (Fig. 1, elements 8 and 9).

The use of a stud-bolt and nut as a threaded fastener prevents the fastener from being dislodged.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of Thompson as modified by Gillet by using a stud-bolt and nut similar to that of Hase in order to prevent the fastener from dislodging.

9. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson (US Patent 5,010,704) in view of Gillet (US Patent 4,769,961) as applied to claim 1, in further view of Wirkus (US Patent 5,740,646).

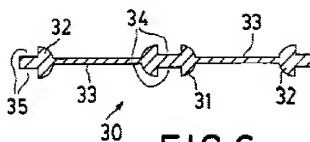
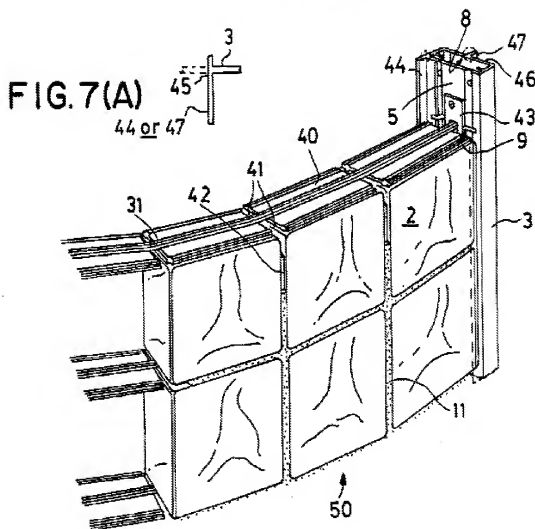


FIG. 6



Figs. 6 and 7a from Wirkus

Thompson as modified by Gillet discloses an apparatus as set forth above with claim 1, but lacks a distance pad in the form of a tongue to form arched shaped walls.

Wirkus teaches that it is known in the art to use distance pads in the form of tongues (Fig. 6 as a whole noted as element 31 in Fig. 7a).

The use of a distance pad in the form of a tongue allows curved walls to be constructed while maintaining the rigidity of the frame structure.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of Thompson as modified by Gillet with a distance pad similar to that of Wirkus in order to construct curved walls while maintaining the rigidity of the frame structure.

#### ***Allowable Subject Matter***

10. Claim 8 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RYAN J. FRANKS whose telephone number is (571)270-3743. The examiner can normally be reached on Mon.-Thurs., alternating Fri., 7:30-5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached on (571) 272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Victor Batson/

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Supervisory Patent Examiner  
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/R. J. F./  
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